

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:

**Zambelli Fireworks Manufacturing
Company
27 East Maitland Lane
New Castle, PA 61605**

Attn: George Zambelli, Sr.

**Complaint No. R8-2003-0090
for
Administrative Civil Liability**

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Zambelli Fireworks Manufacturing Company, also known as Zambelli Fireworks Internationale (hereinafter Zambelli) and formerly operating in Rialto, California, is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13268 of the California Water Code.
2. A hearing in this matter will be scheduled for the Board's regular meeting on August 22, 2003, at the Orange County Water District, 10500 Ellis Avenue, Fountain Valley. Zambelli or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Zambelli is alleged to have violated subdivision (a) of Section 13268 of the California Water Code, which states "Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267...is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b)"
5. This Complaint is based on the following facts:
 - a) Perchlorate has been detected in municipal water supply wells in the Rialto and Colton Groundwater Subbasins. These water supply wells are located downgradient of the former storage bunker that was used by Zambelli from 1982 (and possibly earlier) until 1991, located at 2170 West Stonehurst, City of

Rialto, San Bernardino County, California. Zambelli used and stored products containing perchlorate salts in the former bunker.

- b) Zambelli is suspected of having discharged perchlorate waste that has adversely affected water quality. Accordingly, the Executive Officer issued Zambelli an Investigation Order dated December 16, 2002, pursuant to subdivision (b) of California Water Code Section 13267.
 - c) Based on the evidence referenced in the December 16, 2002 Investigation Order, Zambelli was ordered to submit a work plan by January 31, 2003, for conducting a soil and groundwater investigation of perchlorate in the vicinity of the former storage bunker. The December 16, 2002 Investigation Order also informed Zambelli that failure to submit the required information by the specified deadline would subject Zambelli to administrative civil liability in the amount of up to \$1,000 per day pursuant to Section 13268(a) and (b) of the California Water Code.
 - d) At the request of Mr. Michael F. Buck, attorney for Zambelli, Board staff met with Mr. Buck on January 22, 2003. Mr. Buck stated that Zambelli had experienced difficulties in locating and reviewing historical records pertaining to the company's use of the Rialto storage bunker. On January 24, 2003, Board staff received a written request from Mr. Buck for a one-month extension of the compliance deadline for Zambelli's submittal of a work plan. The extension was not granted. However, staff considered Mr. Buck's explanation and the written request for extension and determined not to take enforcement action for the delinquent report at that time.
 - e) Between January 24 and July 8, 2003, Board staff had numerous communications with Mr. Buck by e-mail and telephone regarding submittal of the required work plan. A work plan was submitted on June 16, 2003 (approximately five months late). The work plan, prepared by Erler & Kalinowski, Inc., (EKI), proposed a review of records, a site reconnaissance at the location of the former storage bunker, interviews with knowledgeable individuals, and submittal of a summary report, but failed to include a soil and groundwater investigation.
6. Zambelli failed to submit a work plan by January 31, 2003, and the work plan that was submitted on June 16, 2003 failed to include an investigation of soil and groundwater in the vicinity of the former bunker. Therefore, the work plan that was submitted was delinquent and inadequate, and does not comply with the requirements of the December 16, 2002 Investigation Order. Failure to submit an adequate work plan by January 31, 2003, pursuant to the December 16, 2002 Investigation Order, is a violation of California Water Code Section 13268(a).


7. Section 13268(b) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed one thousand dollars (\$1,000) for each day that a violation of Section 13268(a) occurs.
8. Pursuant to Section 13268, the total maximum assessment for which Zambelli is civilly liable is \$178,000, based on \$1,000 per day for 178 days of violation from January 31, 2003, through the date of this Complaint, July 28, 2003.
9. Board staff costs for preparing the written documentation for this case, researching the bunker site history, responding to information requests from the public regarding this site, and seeking the required work plan through communications with Zambelli's attorney were approximately \$7,650 (85 hours at \$90/hour). These costs were considered in assessing the liability proposed in Paragraph 11, below.
10. Section 13327 specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: the nature, circumstances, extent, and gravity of the violation, whether the discharge is subject to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the discharger, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.
11. After consideration of the above factors, the Executive Officer proposes that civil liability be imposed on Zambelli in the amount of \$35,000. An invoice for this amount is enclosed.

WAIVER OF HEARING

Zambelli may waive its right to a hearing. If Zambelli chooses to do so, please sign the attached waiver form and return it, together with a check or money order for \$35,000, and the bottom portion of the invoice, to the State Water Resources Control Board in the enclosed preprinted envelope.

If you have any questions, please contact Ann Sturdivant at (909) 782-4904, Kurt Berchtold at (909) 782-3286, or contact the Regional Board's legal counsel, Jorge Leon, at (916) 341-5180.

7/28/03
Date


Gerard J. Thibeault
Executive Officer

In the matter of:)
)
Zambelli Fireworks Manufacturing Company)
27 East Maitland Lane)
New Castle, PA 61605)
)
Attn: George Zambelli, Sr.)

Complaint No. R8-2003-0090
for
Administrative Civil Liability

WAIVER OF HEARING

I agree to waive Zambelli Fireworks Manufacturing Company's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0090. I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$35,000. I understand that I am giving up Zambelli Fireworks Manufacturing Company's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Zambelli Fireworks Manufacturing Company



California Regional Water Quality Control Board

Santa Ana Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

July 28, 2003

Mr. Michael L.F. Buck
McDonough, Holland & Allen
555 Capitol Mall, Suite 950
Sacramento, CA 95814

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2003-0090

Dear Mr. Buck:

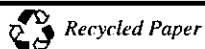
Enclosed is Complaint No. R8-2003-0090 assessing administrative civil liability against the Zambelli Fireworks Manufacturing Company (a.k.a. Zambelli Fireworks Internationale, hereinafter Zambelli) for failing to submit the required work plan for an investigation of soil and groundwater at the site of their former storage bunker in Rialto, California. Unless Zambelli waives its right to a hearing, a public hearing on this matter will be held at the Santa Ana Regional Water Quality Control Board's meeting on August 22, 2003. This Board meeting will be held at the offices of the Orange County Water District, 10500 Ellis Avenue, Fountain Valley, California. An agenda and a staff report will be provided to you at least 10 days prior to the meeting.

If Zambelli chooses to waive its right to a hearing, please complete the enclosed waiver form and submit it to this office prior to the hearing, with a check for the proposed amount of civil liability (\$35,000). The check should be made payable to the State Water Resources Control Board.

If Zambelli does not wish to waive its right to a hearing, you should contact this office to schedule a pre-hearing meeting. At that time, you may submit information that may not have been previously available to staff regarding this matter. The information should address the following items:

1. Nature, circumstance, extent and gravity of the violation;
2. Susceptibility of discharge to cleanup or abatement;
3. Your ability to pay the proposed assessment;
4. Any prior history of violation;
5. Your degree of culpability;
6. Economic benefit, or savings, resulting from the discharge;
7. Such matters as justice may require.

California Environmental Protection Agency



July 28, 2003

If you have any questions, or wish to schedule a pre-hearing meeting, please call Kurt Berchtold, Assistant Executive Officer, at (909) 782-3298, or Ann Sturdivant, Chief of our SLIC/DoD Section, at (909) 782-4904.

Sincerely,



Gerard J. Thibeault
Executive Officer

Enclosures: 1. Administrative Civil Liability Complaint No. R8-2003-0090
2. Waiver of Hearing
3. Mailing List

cc w/enclosures:

Regional Board
Jorge Leon, SWRCB, OCC
George Zambelli, Sr., New Castle, PA

cc w/o enclosures:

Inland Empire Perchlorate Regulatory Task Force (mailing list enclosed)

AES/data/SLIC/2001-03 rialto perchlorate/13267/Zambelli ACLC transmittal

